

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Nicholas Schwab, Individually, as son and)	
Independent Administrator (petitioned for))	
of the Estate of Alivia Schwab, deceased,)	
)	No. 23 CV 16607
Plaintiff,)	
)	
vs.)	
)	
MORRIS POLICE OFFICER NICHOLAS)	
PAMPINELLA; MORRIS POLICE OFFICER)	
CASIE PRICE; individually, and as employees/)	
agents of the City of Morris; and THE CITY)	JURY DEMANDED
OF MORRIS, a Municipal Corporation,)	
)	
Defendants.)	

**AGREED MOTION TO EXTEND DISCOVERY DEADLINE
AND RESET STATUS HEARING**

NOW COME the Defendants OFFICER NICHOLAS PAMPINELLA, OFFICER CASIE PRICE and the CITY OF MORRIS, hereinafter referred to collectively as “Defendants” by and through their attorneys, MICHAEL D. BERSANI and G. DAVID MATHUES of HERVAS, CONDON & BERSANI, P.C., and pursuant to Federal Rule of Civil Procedure 6(b), state the following in support of the parties’ agreed motion to extend the May 13, 2024 discovery deadline:

1. On December 8, 2023, Plaintiff, NICHOLAS SCHWAB, Individually, as son and Independent Administrator of the Estate of ALIVIA SCHWAB, Deceased, filed a complaint pursuant to 42 U.S.C. §1983 against Defendants alleging that the decedent was shot and killed by Officer Nicholas Pampinella in deprivation of the decedent’s constitutional rights.

2. This Court conducted an initial status hearing on February 13, 2024, and entered an order stating that discovery shall be completed May 13, 2024, and setting a telephonic status hearing to report on settlement for May 24, 2024, at 9:50 a.m. *See* Dkt. #21.

3. The parties have worked diligently and collaboratively in trying to meet the discovery deadline. They exchanged FRCP 26(a)(1) initial disclosures by March 29, 2024. Plaintiff answered written discovery requests by April 5, 2024, and Defendants by April 9, 2024. Together the parties have exchanged nearly 5,000 pages of records.

4. The depositions of the Defendant Officers are scheduled for May 1 and 2, 2024, and the depositions of Plaintiff Nicholas Schwab and the decedent's ex-husband Bradley Schwab are scheduled for June 13 and 14, 2024, respectively. The parties are in the process of scheduling the depositions of three additional fact witness depositions. Defendants anticipate taking the depositions of several medical providers who provided mental health care and treatment prior to her death. Defendants have received some but not all of the decedent's pre-incident mental health records. Defendants have asked Plaintiff's counsel for additional releases to obtain the missing records via subpoenas. Plaintiff also recently disclosed a medical provider for one of the minor next of kin, and Defendants desire to obtain those records as well.

5. Defendants anticipate filing a motion for summary judgment at the conclusion of fact discovery. The parties also anticipate the disclosure of retained experts and will be asking the Court for an expert schedule after the completion of fact discovery.

6. Rule 6(b) requires "good cause" for an extension of time. *See* Fed. R. Civ. P. 6(b). Rule 16(b)(4) requires good cause to modify a scheduling order. *See* Fed. R. Civ. P. 16(b)(4).

7. Such “good cause” is warranted here. The parties have diligently worked on discovery and ran into several hurdles that necessitate additional time and cooperation and collaborating with this litigation.

8. The parties request this Court to extend the deadline to complete fact discovery to August 30, 2024. While the parties appreciate the Court’s offer to discuss settlement early, substantial fact discovery needs to occur before the parties will be in a position to do so. The parties suggest that the May 24th telephonic status hearing be stricken and reset to a date in September of 2024.

9. Counsel for Plaintiff and Defendants have conferred and agree upon this motion.

10. The requested extension is in no way designed to prejudice or inconvenience any party to this action. Further, no harm or prejudice will occur to any party of this action as a result of granting this motion.

WHEREFORE, Defendants OFFICER NICHOLAS PAMPINELLA, OFFICER CASIE PRICE and the CITY OF MORRIS, respectfully pray that this Court grant this motion for an extension of the discovery deadline and for such further relief this Court deems just.

Respectfully submitted,

s/ Michael D. Bersani

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G. DAVID MATHUES, ARDC No. 06293314

Attorneys for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2024, I electronically filed the foregoing **Defendants Agreed Motion to Extend Discovery Deadline and Reset Status hearing** with the Clerk of the U.S. District Court for the Central District of Illinois, using the CM/ECF system, which will send notification to the CM/ECF participants:

TO: Jeffrey J. Neslund
Law Offices of Jeffrey J. Neslund
20 N. Wacker Drive, Suite 3710
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s/ Michael D. Bersani

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